

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number

Q68279

Mail Stop AF
 Commissioner for Patents
 P.O. Box 1450 Alexandria, VA 22313-1450

Application Number

10/058,805

Filed

January 30, 2002

First Named Inventor

Hiroyuki TOMOIKE

Art Unit

2144

Examiner

Thanh T. NGUYEN

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal


The review is requested for the reasons(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

☒ I am an attorney or agent of record.

Registration number 33,102

 #38584
 Signature


 Paul F. Neils.
 Typed or printed name

(202) 293-7060
 Telephone number

October 4, 2007
 Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q68279

Hiroyuki TOMOIKE

Application. No.: 10/058,805

Group Art Unit: 2144

Confirmation No.: 4726

Examiner: Thanh T. NGUYEN

Filed: January 30, 2002

For: MOBILE COMMUNICATION SYSTEM AND DATA TRANSFERRING METHOD
FOR USE WITH MOBILE COMMUNICATION SYSTEM

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated May 4, 2007, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue:

The Examiner has rejected claims 1-7 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Martin, Jr. et al.(U.S. Patent 6,610,105) in view of Chern et al. (U.S. Patent No. 6,381,465). Applicant respectfully disagrees.

With regard to claim 1, neither Martin or Chern, alone or in combination, teach, or even suggest, at least "a portable information terminal unit; [and] **a plurality of mobile stations** capable of participating simultaneously in communication with said portable information terminal unit." In one exemplary embodiment of the present invention, the mobile devices may

use Bluetooth for communicating with the portable information terminal unit. (See pages 20-21, ll. 22-4). As a result, the mobile devices can be moved freely within the range of the Bluetooth link.

Initially, Applicant notes that the Examiner has not given the proper weight to the word “**mobile**” in the “plurality of **mobile** stations” limitation of claim 1. It is well known that, when examining the claims of an application, “[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.” MPEP § 2143.03. Additionally, “[w]hen evaluating claims for obviousness under 35 U.S.C. § 103, **all the imitations of the claims must be considered and given weight**. MPEP § 2143.03.

In the Office Action of May 4, 2007, the Examiner asserted that the “plurality of **base stations**,” making up the network 140 in Chern, correspond to the “plurality of **mobile stations**” of claim 1. This is simply not a reasonable interpretation.

With regard to “base stations,” Chern teaches that the base stations are **fixed**, not mobile. Specifically, Chern teaches that “the position of handset 130 is determined by triangulating a signal from handset 130 with the **fixed locations** of two or more base stations.” For at least this reason, Applicant asserts that claim 1 is allowable over the cited art of record.

In the Advisory Action of September 13, 2007, the Examiner now relies on Martin, as allegedly disclosing the “plurality of mobile stations.” Specifically, the Examiner now asserts that the plurality of “mobile stations” correspond to the “base stations” of Martin. This is simply incorrect, as the Examiner has already conceded that Martin fails to teach this very same limitation. Specifically, in the Final Office Action of May 4, 2007 the Examiner conceded that “Martin does not explicitly disclose a plurality of mobile stations.” (See Office Action, page 7).

Applicant's representatives contacted the Examiner on September 25, 2007 to clarify the Examiner's position. During the telephonic conversation of September 25, 2007 the Examiner indicated that she interprets the word "mobile" in "*mobile* stations" as describing the purpose or function of the station. In other words, the Examiner interprets the "mobile stations" as "stations which communicate with mobile devices" rather than, for example, stations which are mobile, or stations whose location is not fixed. Applicant respectfully submits that a person of ordinary skill in the art would not understand the claimed mobile stations as being anything other than stations that are mobile, even under the broadest reasonable interpretation. Especially when read in light of the specification, the Examiner's interpretation of "mobile station" is unreasonable broad.

Additionally, with respect to claim 1, neither Martin nor Chern, teach or even suggest, at least a "portable information terminal unit adapted to download or upload data from or to said content server through the plurality of mobile stations, wherein the data is divided into a plurality of pieces and each of the plurality of mobile stations uploads or downloads only a portion of the plurality of pieces of data." In other words, according to one exemplary embodiment of the present invention, if data being stored on the server needs to be uploaded to the portable information terminal unit, the chosen data would be divided into a plurality of pieces, and each mobile station, making up the plurality of mobile stations, could only upload a portion of the plurality of pieces of data.

Instead, Chern merely describes splitting up the storage function between the server and the mobile handset. Specifically, Chern teaches "the program, or portions of it, could be stored on the server 136 and downloaded to the handset 130 as needed." (See Col. 13, ll. 15-22; see also, Office Action, page 8). That is, Chern merely discloses storing some of the data on the server and some of the data on the mobile handset. For example, storing the necessary data on

the mobile handset, and downloading any additional data from the server as needed. However, in every scenario described by Chern, data would be downloaded or uploaded in a single chunk of data.

During the Interview of July 24, 2007, the Examiner took the position that the “information terminal unit [being] adapted to download or upload data from or to said content server through the plurality of mobile stations,” as recited in claim 1, can be interpreted to mean that the information is passed through a plurality of base stations set up in a relay organization, i.e., from the server to one base station, from that base station to the next base station, and so on, until reaching the mobile handset. Applicant respectfully submits that this rationale is based on the unreasonable interpretation of “mobile stations”.

Further, under the Examiner’s interpretation of claim 1, all of the data being sent from the portable terminal unit to the content server would initially have to be relayed by a single mobile terminal, regardless of whether the data would be relayed to another mobile terminal or to a content server. That is, if a plurality of base stations were arranged in a relay organization, as the Examiner suggests, each station in the relay organization would receive the entire chunk of data and then pass that entire chunk of data to the next base station in the relay.

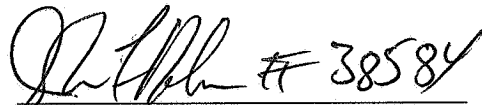
However, as described above, according to one exemplary embodiment of the present invention, once the chosen data is divided into a plurality of pieces, each mobile station, making up the plurality of mobile stations, can only upload a portion of the plurality of pieces of data. The rest of the data would have to be uploaded by another mobile station, or stations. In other words, one mobile station cannot send all of the data (i.e. the entire chunk), but at most can send a portion of the plurality of pieces of data. For at least this reason, Applicant respectfully

asserts that the Examiner's interpretation of claim 1 is impermissibly broad. As such, Applicant respectfully asserts that claim 1 is allowable over the cited art of record.

With regard to independent claims 2-7, Applicant respectfully asserts that claims 2-7 are allowable for at least the reasons analogous to those recited with respect to claim 1.

In light of the foregoing, Applicant respectfully requests that each of the above-noted rejections be withdrawn.

Respectfully submitted,



J. Warren Lytle, Jr.

Registration No. 39,283

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

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